

SECTION 13 CONTRACT ADDENDA

13.1 PURPOSE

The purpose of this Section is to define and describe the addenda process. It is also to ensure the respective units know their roles and responsibilities in addenda processing. Addenda processing must be given highest priority.

Addenda preparation is covered in the "Addenda Preparation" folder (accessed on the HQ-OE intranet site through the "Training" pull-down menu).

13.2 BACKGROUND

An addendum is a change to the contract documents of an advertised project. Addenda are issued primarily to correct significant errors, omissions or conflicts in the contract documents. For bidders, an addendum is the instrument used to convey material changes made to the contract documents. Once bids have been opened, project changes can only be made by rejecting all bids and re-advertising, or by issuing a contract change order (CCO) during construction.

Addendum requests are required for AAOE projects. Addendum requests are reviewed by DES-OE and are either denied or approved and processed.

For AADD projects, the District/Region makes the decision to issue an addendum and has the responsibility for preparing it.

13.3 RESPONSIBILITIES

13.3.1 PE

- Prepares addendum requests for AAOE projects.
- Prepares addenda for AADD projects.
- Contacts SOE and other functional units regarding additional addendum items.
- Consolidates all items from other functional units in addendum requests or addenda.
- Obtains approval from FHWA for addendum changes to high profile elements of federal aid projects.

13.3.2 DOE

- Reviews and processes addenda requests for AAOE projects.
- Reviews and processes addenda letters for AADD projects.

- Transmits addendum requests and addenda letters to DES-OE.

13.3.3 PROJECT MANAGER

- Concurs with the addenda requests for AAOE projects.
- Concurs with addenda for AADD projects.

13.3.4 AFFECTED FUNCTIONAL UNITS

Concur with the addenda requests for AAOE projects. Concurs with addenda for AADD projects.

13.3.5 DEPUTY DISTRICT DIRECTOR, DESIGN/MAINTENANCE

Approves and signs addenda requests for AAOE projects.

13.3.6 DISTRICT DIRECTOR

Approves and signs addenda requests to recommend postponement of bid opening if the addendum will be issued within 72 hours of bid opening.

13.3.7 DISTRICT OR REGIONAL DIRECTOR WITH AADD AUTHORITY

Approves and signs addenda for AADD projects.

13.3.7 DES-OE

- Prepares, approves and issues addenda for AAOE projects.
- Processes and issues addenda for AADD projects.

13.4 EVALUATE NEED FOR ADDENDA

Evaluate the following when deciding to issue an addendum:

- The importance of the change;
- The resources required to prepare, process and issue the addendum;
- The resources available to prepare, process and issue the addendum; and
- The impact of issuing the addendum on project schedule, including bid opening, award and beginning of contract work.

13.5 ADDENDA REQUESTS

Districts request addenda in writing for AAOE projects. The DOE reviews and processes the request. Contract changes proposed by SOE and other functional units must be requested through the district and processed by the DOE. Addenda requests must provide clear, concise and complete information.

By law, addenda may not be issued within 72 hours of bid opening unless a postponement of the bid opening is provided. Exceptions may be made for minor "housekeeping" issues.

If the addendum will be issued more than 72 hours before bid opening, the request must be signed by the Deputy District Director or higher. If the addendum will be issued within 72 hours of bid opening the District Director must approve and sign the addendum request. The request must include a cost-benefit statement that justifies postponing the bid opening to revise the contract documents by addendum.

13.5.2 CONTENTS OF ADDENDUM REQUEST MEMORANDUM

The Addendum Request Memorandum must include:

- The project description;
- General description of the proposed changes;
- Reason for making the change(s) and the consequences of not making the change(s);
- Discussion of the cost impact of the addendum changes;
- Approval from other divisions affected by the revisions;
- Verification that FHWA has approved proposed changes to high profile elements of federal aid projects;
- Signature of the responsible Deputy District Director for the project;
- Concurrence of functional units impacted by the proposed addendum changes. For example, if road specifications are revised and the DOE signed and sealed them, then the DOE's concurrence must be noted in the body of the memorandum.
- Concurrence of the Project Manager if the bid opening date, project cost or scope is to be changed.

A sample Addendum Request Memorandum is provided at the end of this section.

13.6 FHWA ADDENDA APPROVAL

FHWA approval is required for changes to high profile elements of federal aid projects. An executed Prior Approval-Contract Addendum form (see Appendix B) for this addendum will be furnished to the Department by FHWA when the formal request for addendum approval is processed.

An addendum that changes the scope of a federal aid project is required to have an updated NEPA (National Environmental Policy Act) document and E-76.

The Department has been delegated blanket approval by FHWA for the following types of addenda:

1. Addenda affecting the bid solicitations and general provisions of the special provisions, including:
 - Bid Opening Dates.
 - Contractors Licenses.
 - DBE Goals.
 - Minimum Wage Rates.
 - Changes Mandated by FHWA.
2. Addenda correcting approved plans, specifications, and estimate that do not affect the scope of the project:
 - Additions or deletions of notes on the plans, addition of missing drawings, providing missing dimensions of an item, or to delete a reference.
 - Typographical corrections to specifications, additions of missing specifications, correcting conflicting provisions, and changes to clarify vague and ambiguous requirements.
 - Corrections to the estimate for contract items based on error only when the change is less than \$200,000.

13.5.1 REASONS FOR DENYING ADDENDA REQUESTS

DES-OE may deny addenda requests if the requested addendum:

- Is not cost effective;
- Does not correct significant errors, omissions or conflicts in the contract documents; or
- Materially changes the scope, character, cost, or project limits from those authorized in the NEPA approval, PS&E approval, or E-76 authorization without FHWA approval.

13.7 ADDENDA PREPARATION

13.6.1 AAOE ADDENDA

Addenda for AAOE projects are requested by the District and prepared, processed and approved by DES-OE.

13.6.2 AADD ADDENDA

Addenda for AADD projects are prepared by the District and signed by the Delegated District or Region Director. Addenda for AADD projects that consist of only Federal Minimum Wage Rate changes are prepared and processed by DES-OE, and signed by the delegated District or Region Director.

All addenda are issued by DES-OE, i.e., transmitted electronically or a hardcopy sent to book holders, published on the HQOE website, recorded in the HQOE database and a hardcopy placed in the Job File.

13.6.1 SCHEDULE

To allow sufficient time to process addenda within the scheduled advertising period and to maintain the scheduled bid opening, DES-OE must receive addenda requests no later than the third Monday before bid opening.

DES-OE may consolidate multiple addendum requests until the third Monday before bid opening. Addenda that affect how the bid is prepared, who might bid on the project, or which suppliers and subcontractors might be interested should be issued as quickly as possible to prevent bid proposal rework.

If the addendum involves major processing, e.g., many plan sheet changes, or impacts pre-bid submittal review time of prospective bidders, subcontractors, and suppliers, DES-OE must receive the addendum request no later than the fourth Monday before bid opening.

When there is insufficient time for analyzing, preparing and processing the addendum, an addendum to either postpone the bid opening or cancel the current advertisement and readvertise later) should be issued. This is to alert contractors to upcoming changes and prevent redundant bid proposal preparation effort.

Addenda that are issued within 72 hours of bid opening must, by law, include a postponement of the bid opening to ensure a minimum 72-hour period without changes. Addenda that are issued one to two weeks before bid opening should include a postponement of bid opening to allow the bidders enough time to incorporate addenda changes into their bids.

An addendum checklist is provided at the end of this section.

13.8 REFERENCES

Public Contract Code 4104.5

Decision Document "72 Hours Timely Notice to Bidders of Bid Opening Postponement."

(See Appendix D for hyperlinks and Appendix B for forms).

Sample Addendum Request Memorandum

Memorandum

TO: Chief, Office of Plans, Specifications and Estimate Date: May 17, 2004
Attention: Area Senior
FROM: DEPARTMENT OF TRANSPORTATION - 04 File: 04-123454
SUBJECT: Request for Addendum

Request an addendum be issued to redefine the limits of trimming of plants for sound wall construction, to correct a final pay quantity, and to change a structural section for construction on State Highway in Sonoma County in and near Cottonwood.

The structural section beneath the concrete barrier has been revised. This is a significant change that will save the State about \$100,000. The change was the result of a cost-reduction study after submittal of the PS&E to reduce the project's cost to within its budgeted cost.

Clearing and grubbing was erroneously given standard treatment. The environmental report requires that clearing and grubbing be kept to a minimum in this environmentally sensitive area. The impact on the work and cost of this change in clearing and grubbing is minimal. It could probably be handled by contract change order. It is offered in anticipation that an addendum will be justified for other reasons and that the effort to incorporate this change could be incidental.

The final pay quantity of minor concrete (minor structure) was erroneously calculated and checked. The actual quantity is twice what is shown in the estimates and on the plans. The omitted quantity is minimal and amounts to some \$1000. To leave it as it is would be biddable, as adequately provided for in the Standard Specifications, but would not be consistent with our policy on final pay quantities. An addendum would not have been requested for this change alone.

The proposed addendum should address the following items:

Project Plan Sheet No. 3 and 21 are revised. Redline prints of proposed changes are attached.

In the special provisions, in Section 10-1.11, "Clearing and Grubbing," delete the second paragraph and add the following:

"Only such trimming and pruning of plants as is necessary for construction of sound wall shall be performed. The Engineer shall be notified a minimum of 48 hours before any trimming and pruning of plants necessary for construction of sound wall."

In the "Copy of the Engineer's Estimate," the estimated quantity of Item No. 31 is revised from 6 m³ to 10 m³. A redline print of the Engineer's Estimate is attached.

DES-SD has been contacted, and they had no addendum items to include.

Ken Jones, FHWA Field Operations Engineer, has reviewed the structural section change and concurred with the proposed change on April 26, 2004.

John Smith, DOE, has prepared the specification changes required. No other staff approvals were necessary.

Deputy District Director, Project Development

Attachments:

cc: IBG

ADDENDUM CHECKLIST

- ___ 1. Contact DES-OE Addenda Unit to confirm addendum number, processing schedule and addendum date.
- ___ 2. Postpone bid opening if necessary or appropriate.
- ___ 3. Confirm new bid opening date with DES-OE Scheduling Unit.
- ___ 4. Use correct and current AADD Addendum form letter from "Addenda Letters" folder on the hqoe fileserver.
- ___ 5. Verify that the following project information is consistent between the addendum letter and the contract documents:
 - ___ 5a. Contract No.
 - ___ 5b. District, County, Route and Post Mile (or KP) designations
 - ___ 5c. Federal Aid Number(s), if project has federal funds
 - ___ 5d. Project description
 - ___ 5e. Bid opening date
- ___ 6. Follow instructions in the *Addenda Preparation Procedures Guide* to prepare revised plan sheets, revised Engineer's Estimate pages and other attachments.
- ___ 7. The addendum date and number are correct on the letter and all attachments.
- ___ 8. References in the letter to project plan changes are accurate.
- ___ 9. Added plan sheets are numbered correctly.
- ___ 10. References in the letter to Notice to Contractors and Special Provisions book changes are accurate.
- ___ 11. Added specifications are numbered correctly.
- ___ 12. References in the letter to Engineer's Estimate changes are accurate.
- ___ 13. Revised Engineer's Estimate pages have the correct number of columns and are numbered correctly.
- ___ 14. Previous addenda for this project have been checked to avoid redundant changes
- ___ 15. Complete the "Addenda Data Info Form" and return to DES-OE Addenda Unit.